

Appl. No. 10/087,402
Atty. Docket No. P-130
Reply to Office Action of December 19, 2003
Customer No. 27,752

REMARKS

Claims 1 – 26 are pending in the present application. The Examiner has restricted prosecution of the application as pending to ten groups:

Group I. Claims 1, and 3 – 6, drawn to a method for determining canine PepT1-transportability of a peptide.

Group II. Claims 2 – 6, drawn to a method for identifying a peptide with a beneficial nutritional property for an animal.

Group III. Claims 7 – 9, drawn to a dietary composition comprising a peptide.

Group IV. Claims 10 – 12, drawn to a processing for altering the absorption of essential amino acids in an animal.

Group V. Claims 13 – 18, drawn to a method of stimulating H⁺-dependent peptide transport in cells.

Group VI. Claims 19 – 24, as solely drawn to nucleic acids and compositions thereof comprising SEQ ID Nos. 7 and 8.

Group VII. Claims 19 – 24, as solely drawn to nucleic acids and compositions thereof comprising SEQ ID Nos. 9 and 20.

Group VIII. Claim 25, as solely drawn to peptides encoded by SEQ ID Nos. 7 and 8.

Group IX. Claim 25, as solely drawn to peptides encoded by SEQ ID Nos. 9 and 20.

Group X. Claim 26, drawn to a peptide having an amino acid sequence of SEQ ID No. 13 or 21.

The Examiner states that the defined groups may be restricted since the compositions of Group III may be used in accordance with a materially different process relative to that which is recited in the claims of Group IV. However, if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though the Examiner is of the viewpoint that the claims should otherwise be restricted. See MPEP 803. The Examiner has not indicated any reason why search and examination of the application as pending would present a burden.

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Moreover, with respect to Groups I and II, the Examiner has defined the subject matter in accordance with the same classes and subclasses. The same is applicable for Groups VI and VII, as well as Groups VIII, IX, and X. This is particularly noteworthy in the cases of Groups VI – X, wherein specific SEQ ID Nos. are recited.

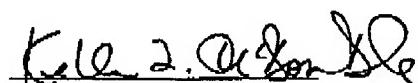
Even further, the compositions of Group III comprise a peptide which is identified in accordance with methods recited in Group I or II, thereby materially linking these groups. Similarly, Group IV is a process which comprises the step of feeding the compositions included within Group III. The practicality of finely dicing the present claims in accordance with the Restriction Requirement is therefore not evident.

Applicants request that the Examiner reconsider the Restriction Requirement, or at least the construction thereof, as the manner in which it is currently framed will place an unacceptable burden on Applicants to claim the subject matter to which they are entitled. If the Examiner persists with this Requirement, Applicants suggest a compromise of grouping Claims 1 – 12 as a single group, with Claims 13 – 26 as a different group.

Applicants therefore traverse this restriction and request that the Examiner carefully consider the merits of the restriction. Notwithstanding, Applicants provisionally elect Group III, Claims 7 – 9, drawn to a composition.

Applicants therefore respectfully request that the Examiner reconsider the Restriction Requirement and proceed to examination of the present application on the merits. If the Examiner believes that personal contact would be beneficial for disposition of the present application, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,



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January 8, 2004

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